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(Original Signature of Member)

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. SHADEGG introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To authorize the Regional Foresters to exempt tree-thinning projects, which are necessary to prevent the occurrence of wildfire likely to cause extreme harm to the forest ecosystem, from laws that give rise to legal causes of action that delay or prevent such projects.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Wildfire Prevention  
5       and Forest Health Protection Act of 2002”.



1   **SEC. 2. FINDINGS.**

2       Congress finds the following:

3           (1) National Forest System lands in the west-  
4       ern United States are in poor ecological health and  
5       in grave danger of catastrophic wildfires because of  
6       high fuel loads.

7           (2) The poor condition of these National Forest  
8       System lands is evidenced by the fact that, in the  
9       first seven months of 2002, 51,669 wildfires have  
10      devastated over 3,800,000 forested acres, including  
11      999,000 acres in Alaska, 628,000 acres in Arizona,  
12      378,000 acres in Colorado, 298,000 acres in New  
13      Mexico, 290,000 acres in Oregon, 229,000 in acres  
14      in Utah, and 169,000 acres in California.

15          (3) It has been scientifically established that re-  
16      ducing fuel loads by thinning trees improves forest  
17      ecological health and reduces the risk of catastrophic  
18      crown fires.

19          (4) Trees damaged by fire are more susceptible  
20      to insect infestation than healthy undamaged trees,  
21      and experts agree that fire damaged trees must be  
22      removed to improve forest health and that such re-  
23      moval must occur within six to twelve months if the  
24      fire damaged trees are to have any commercial  
25      value.



1           (5) Under current Federal law, forest manage-  
2           ment projects designed to reduce fuel loads are sub-  
3           ject to challenge and appeal by groups and individ-  
4           uals.

5           (6) In a report issued in July 2002, the Forest  
6           Service found that 48 percent of projects involving  
7           mechanical tree thinning on National Forest System  
8           lands have been subject to challenge and appeal and  
9           that the extra decision-making analysis forced by  
10          these appeals “added significantly to time required  
11          but did not materially improve the proposed action”.

12          (7) The Forest Service further found that “In  
13          spite of the agency’s best efforts, individuals or or-  
14          ganizations opposed to the projects filed appeals  
15          and/or filed suit to stop the projects.”.

16          (8) Use of existing administrative and legal  
17          processes to address the fire danger in the western  
18          United States will not enable the Forest Service to  
19          take the immediate action necessary to reduce fuel  
20          loads to both improve forest ecological health and  
21          prevent the occurrence of wildfires likely to cause ex-  
22          treme harm to the forest ecosystem.



1 **SEC. 3. REGIONAL FORESTER AUTHORITY TO EXEMPT**  
2 **WILDFIRE PREVENTION TREE-THINNING**  
3 **PROJECTS FROM CERTAIN LAWS.**

4 (a) EXEMPTION AUTHORITY.—Due to the extraor-  
5 dinary wildfire threat present on National Forest System  
6 lands in the western Forest Service Regions, the Regional  
7 Forester for a western Forest Service Region may exempt  
8 a Forest Service project described in subsection (b) from  
9 any provision of law including, but not limited to, the Na-  
10 tional Environmental Policy Act of 1969 (42 U.S.C. 4321  
11 et seq.) and the National Forest Management Act (16  
12 U.S.C. 1601 et seq.), and the project shall proceed imme-  
13 diately and to completion. In addition, the project shall  
14 not be subject to the notice, comment, and appeal require-  
15 ments of section 322 of Public Law 102–381 (commonly  
16 known as the Appeals Reform Act; 16 U.S.C. 1612 note)  
17 or to judicial review by any court of the United States.

18 (b) COVERED PROJECTS.—A Forest Service project  
19 referred to in subsection (a) is a project that involves the  
20 removal of trees on National Forest System lands man-  
21 aged by the Regional Forester that the Regional Forester  
22 finds, on the basis of the best scientific information  
23 available—

24 (1) are located in an area with a high fuel load,  
25 and a significant possibility exists that a crown fire



1       could occur which would cause extreme harm to the  
2       forest ecosystem; or

3               (2) are dead or severely damaged from fire.

4       (c) CERTIFICATION.—The Regional Forester shall  
5       certify the findings made under subsection (b) to the Chief  
6       of the Forest Service and the Congress.

7       (d) WESTERN FOREST SERVICE REGION DE-  
8       FINED.—In this section, the term “western Forest Service  
9       Region” means the Alaska, Pacific Northwest, Pacific  
10      Southwest, Intermountain, Northern, Southwestern, and  
11      Rocky Mountain Regions.

12   **SEC. 4. CONSTITUTIONAL AUTHORITY.**

13       The Constitutional authority on which this Act rests  
14      is the authority of Congress to make all laws which shall  
15      be necessary and proper, as enumerated in Article I, Sec-  
16      tion 8 of the United States Constitution, as well as the  
17      authority of Congress to make all needful rules and regu-  
18      lations respecting the territory or other property belonging  
19      to the United States, as enumerated in Article IV, Section  
20      3 of the United States Constitution.

